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Boston's Operation Night Light New Roles, New Rules

By JAMES T. JORDAN, M.S.

In 1775, Paul Revere signaled the start of the American Revolution when he mounted his horse to embark on his famous night ride to alert the Massachusetts farmers about the invading British army. In 1992, a lesser-known night ride by two Massachusetts probation officers and two Boston police detectives signaled the beginning of a collaborative revolution in public safety and criminal justice practice in Boston. This collaborative effort, later known as Operation Night Light, teams probation and police officers to ensure that gang members and other high-risk offenders comply with the terms of their probation.

This full and equal partnership helped Boston break down the conventional barriers between police and community correction agencies and embrace a new, unified mission: preventing the next victimization. The pioneers in the two agencies transformed one another's work. Police officers started practicing community corrections; probation officers began doing community crime control. Night Light served as a catalyst for getting all the relevant players onto the same field in order to better address youth violence.

The most ardent supporters of the program are the parents,

grandparents, and guardians of the probationers. These adults fear for the lives and futures of their children and are grateful for the assistance. Numerous community stakeholders also have joined police and probation officers to help reduce the volume of crime committed by youthful probationers. Clergy members, youth outreach workers, social workers, alternative incarceration provider service workers, and school police officers have joined with traditional criminal justice agencies from inside and outside the city of Boston to form a stronger, more comprehensive crime control effort.



James T. Jordan is the director of strategic planning for the Boston Police Department.

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Night Light is committed to a broad strategy characterized by prevention, intervention, and enforcement....

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Initial Success

The power of a police and probation officer partnership was revealed a brief 15 minutes into that first ride-along in 1992. After receiving a call about a shooting in Dorchester, two police officers and two probation officers arrived to find a large number of youngsters standing around the prone body of a wounded, 15-year-old victim who later died. When the two police officers stepped out of the car, none of the onlookers left the scene. Many in the crowd knew the two decorated antigang officers and, although they took them very seriously, felt there was no crime in standing around at a shooting scene. The situation changed dramatically, however, when the two probation officers stepped out of the back seat. The crowd began to disperse immediately. The victim and several onlookers had been clients of one of the probation officers and they knew that being at the scene likely violated their probation. The crowd's sudden dispersal

emphasized the probation officer's role in supervising and working with some of the most high-risk youths. It also illustrated that probationers see little peer stigma attached to leaving a street corner because a probation officer might be performing a curfew or area restriction check.

New Roles

In 1993, Night Light's primary police unit, the highly decorated, 40-member Youth Violence Strike Force (YVSF) was established to address youth and gang violence in the city. Operationally, the program is very simple. Four nights a week, teams of probation and police officers visit the homes of high-risk probationers. Officers in a number of Boston's police districts also visit with probation officers from their local district courts. Police officers work on overtime and regular shifts. Probation officers use flex time and compensation time to work on the program. The YVSF also includes

personnel from a number of other local, state, and federal law enforcement agencies.

District and superior court justices across the city support Night Light. They issue terms of probation, such as curfews and area restrictions, tailored to the profiles of individual offenders. This enables probation and police teams to monitor and restrict probationers' activities in ways that prevent future misdeeds. Probation officers develop lists of those to visit at home and on the street based on a risk assessment. On any given night, however, the teams may visit probationers as recommended by other members of the partnership. For example, if a minister hears from a family member that a probationer is in trouble and subsequently asks the probation officer to talk to the youth, a visit will occur that night.

The success of Night Light depends on a number of key operating principles. First, intensive communication and a unified sense of mission among all the partners are crucial. Preventing recidivism remains more important than compiling positive arrest statistics. Although arrests have been made for on-site criminal activity, such as open drug dealing, arrests and seizures do not represent the program's main goals. Night Light intervention focuses primarily on probationers most likely to have and create problems. All officers must collaborate closely with the local judiciary to set new terms of probation, such as curfews and area restrictions, tailored to individual probationers. Training

should emphasize safety as well as proper and courteous conduct when visiting a probationer's home. Most important, Night Light is committed to a broad strategy characterized by prevention, intervention, and enforcement—a strategy that Boston has successfully implemented to combat a youth crime problem that began 10 years ago.

History

Young street gangs appeared in the inner-city neighborhoods of Roxbury, Dorchester, Jamaica Plain, and Mattapan in an explosion of firearm violence in the spring of 1988. As offenders arrived at the arraignments for these shootings, probation officers noticed the offenders' friends wearing colors to support them. Members of one group had trouble making up their minds about which color to wear. They appeared in the bright red and white of the Cincinnati Reds on one day and in the maize and blue of the University of Michigan a few days later. These early gangs established the pattern of street gang activity in Boston—territorial groups adopting the colors and names of professional or college sports teams. A gang associated with a particular street, housing development, or other turf would give themselves a name based on their street and the name of the sports team they adopted. Thus, dozens of loosely organized and highly localized gangs sprouted with names such as the "Raiders" or "Timberwolves."

Based on their strong informal organizational ties, individual police officers, probation officers,

and public school safety officers, who had begun seeing colors in the schools and picking up intelligence about the gangs and their developing rivalries, started to chart the spread of the gangs. At first, this information was maintained on paper by Boston police officers and school personnel. In 1990, the department began collecting gang data through the use of an electronic database.

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The program has had a great impact on probation compliance in Boston.
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As in most communities, however, it was difficult at first for policy-level officials to realize the new and frightening contours of the gangs and acknowledge their penchant for deadly violence. Officials were deeply concerned that labeling these groups of youthful offenders as gangs would serve only to encourage them and heighten their standing among other youth in the community. Thus, while all agencies stepped up their activities, they did so without a complete picture of the problem, and largely in strategic isolation from one another.

Law enforcement and community agencies applied conventional tactics with urgency and deep commitment, but the killings did not

stop. In fact, intensified police patrols in the affected areas led to an outcry about overly aggressive tactics. By 1989, the outcry was given a formal voice when a superior court judge found that the police department was pursuing an unconstitutional policy of "stop and search." Initially, all of this only served to further fragment the response, exacerbate the problem, and heighten community frustration.

The problem worsened. A city that had seen 75 homicides and 5,920 aggravated assaults in 1987 would see 95 homicides and 6,291 aggravated assaults in 1988. In 1990, homicides reached a high of 152 and 6,960 aggravated assaults were reported to police.¹

Between 1990 and 1995, 25 percent of the offenders responsible for 155 gun and knife homicides of individuals aged 21 and under were on probation at the time of the offense. Fourteen percent of the victims were on probation at the time of their deaths and at least 42 percent of the victims had been on probation at some time.² These findings contributed significantly to the development of the Boston strategy by clarifying information about victims and offenders and emphasizing the need for an approach that would focus resources on those individuals.

The comprehensive strategy was still several years away in 1990, but the combination of escalating numbers of shootings and the high level of frustration compelled officials to take the first bold steps toward that goal. The most important of these steps was the

establishment of the Boston Police Anti-Gang Violence Unit (AGVU). Three years later, this unit would evolve into the Youth Violence Strike Force.

The seeds of collaboration were planted when the AGVU started sending patrols directly into gang-impacted areas and, most important, began gathering and analyzing information about the problem. The probation and police officers began talking daily in the corridors of the district court building in Dorchester, where some of the city's most vital, but most gang-impacted, neighborhoods are located. These conversations between dedicated public safety and criminal justice officers focused on developing a strategy to reduce the spiraling rate of youth homicide and assault. These informal discussions became the foundation for the future partnership.

Impact

Based on special recognition from the President and Attorney General³ as well as on research⁴ that supports the approach, jurisdictions throughout Massachusetts and across the country have replicated the Night Light program. Agencies from over 560 jurisdictions have requested information on the program, and over 140 have come or have scheduled site visits to Boston. Night Light directs the intervention to the problem and works especially well in Massachusetts, where 73 percent of all convicted individuals are sentenced to probation.⁵ It addresses the frustration of the criminal justice community as well as residents who see offenders get

arrested, often only to serve unsupervised sentences in the same neighborhoods in which their crimes were committed.

Recent statistics indicate that Night Light has made a tremendous impact on crime in Boston. Since implementation of the overall Boston strategy in 1996, of which Night Light is a primary component, the city has experienced a 70 percent decrease in the number of people age 24 and under killed by guns.⁶ Between July 1995 and December 1997, no juvenile in Boston was killed with a firearm.⁷

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Night Light intervention focuses primarily on the probationers most likely to have and create problems.

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The program has had a great impact on probation compliance in Boston. A 1997 Boston Police Department (BPD) study found that more than 50 percent of probationers were in compliance.⁸ In contrast, the compliance rate for probationers in the early 1990s was estimated at 17 percent. Significantly, the BPD study also found that as many as 37 percent of juveniles and 25 percent of 17- to 19-year olds not in compliance had surrendered and were serving out their sentences in custody. Also, a

probation department study of the District Court in the Dorchester section of the city found that while the numbers of probationers surrendering for technical violations had risen by 9 percent, the numbers surrendering for new arrests had dropped 2 percent.⁹

The program succeeds largely by vigilantly making probationers accountable, in ever-larger numbers, for maintaining the behavior ordered by the court. Targeting the highest-risk offenders dramatically redirected resources. Going from zero supervisory visits to thousands each year made a substantial impact on the comparatively small number of offenders causing the most problems.¹⁰ In Boston, more than 2,500 Night Light home and neighborhood visits were made in 1996.¹¹ The quality of the collaboration starkly contrasts with the fragmentation that hobbled public safety, criminal justice, and the community 10 years ago.

The Future

The Massachusetts Probation Service and the Boston Police Department have adopted the Night Light strategy to better address additional areas of the prevention of youth violence and repeat domestic violence offenses. Under a grant to the BPD from the Office of Justice Programs' Violence Against Women Act Office and a related grant from the state Executive Office of Public Safety, police and probation officers closely supervise batterers. They focus on subjects of civil and domestic violence-related restraining orders who are on probation, wanted on

outstanding warrants, or on parole for domestic violence or other offenses.

Civilian advocates work on victim safety planning with police and probation officers and encourage victims to take action. The project, named "No Next Time," expresses the commitment to prevent repeat victimizations. Research indicates that 75 percent of subjects issued restraining orders in Massachusetts have criminal records.¹² Half of these offenders have criminal records for violence. Twenty-five percent or more of the aggravated assaults in Boston have a domestic connection.¹² Because 75 percent of offenders receive probationary sentences, a strategy of intensive supervision and intervention through programs like Night Light offers great promise.

Conclusion

Operation Night Light has earned deep support in the community. Many community stakeholders who initially thought that simply increasing street patrols would solve Boston's youth and gang violence problem now realize the program's benefits. Night Light demonstrates what authorities can accomplish when they use tough, but intelligent, tactics leavened with fairness and compassion. All the partners in the Night Light program believe that police and probation collaboration has put down deep roots in Boston that will continue to grow strong and support a safer, more peaceful community. ♦

Endnotes

¹ *Annual Crime Summary*, Office of Research and Evaluation, Boston Police Department, 1996, 3.

² David M. Kennedy, Anne M. Piehl, and Anthony A. Braga, "Boston Gun Project: Key Findings," unpublished report, Program in Criminal Justice Policy and Management, John F. Kennedy School of Government, June 1997, 1-3.

³ Statement by President Clinton when visiting the University of Massachusetts on February 19, 1997, to hold a round table policy discussion about the Boston model and to announce the juvenile crime control proposal he later submitted to Congress.

⁴ Ronald P. Corbett, Jr., Bernard Fitzgerald, and James Jordan, "Operation Night Light: An Emerging Model of Police-Probation Partnership," Pioneer Institute for Public Policy Research, Boston, MA, 1996, 110.

⁵ Mark A.R. Klieman, et. al., "Criminal Justice in Massachusetts: Putting Crime Control First," the Massachusetts Institute for a New Commonwealth, October 1996, 6.

⁶ Research by David M. Kennedy and Anthony A. Braga, unpublished report, Program in Criminal Justice Policy and Management, John F. Kennedy School of Government, 1997, 1.

⁷ Analysis of homicides reported to the Boston Police Department, unpublished report, Boston Police Office of Strategic Planning, 1998, 1.

⁸ Maribeth L. Trojan, "Operation Night Light: Introduction, Operations and Exploratory Research," Boston Police Department, unpublished report, Boston Police Department, 1997, Table 6, 23.

⁹ Supra note 4, 110.

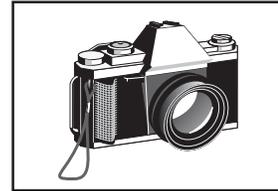
¹⁰ Professor Jack McDevitt, College of Criminal Justice, Northeastern University, Massachusetts, telephone conversation with author, July, 1997.

¹¹ Supra note 8, 20.

¹² *Project History of the Massachusetts Statewide Restraining Order Registry*, issued by the Massachusetts Trial Court, Office of the Commissioner of Probation, July 1994, 18.

¹³ Analysis of aggravated assaults reported to the Boston Police Department in 1995 by the Boston Police Department's Office of Research and Evaluation.

Wanted: Photographs



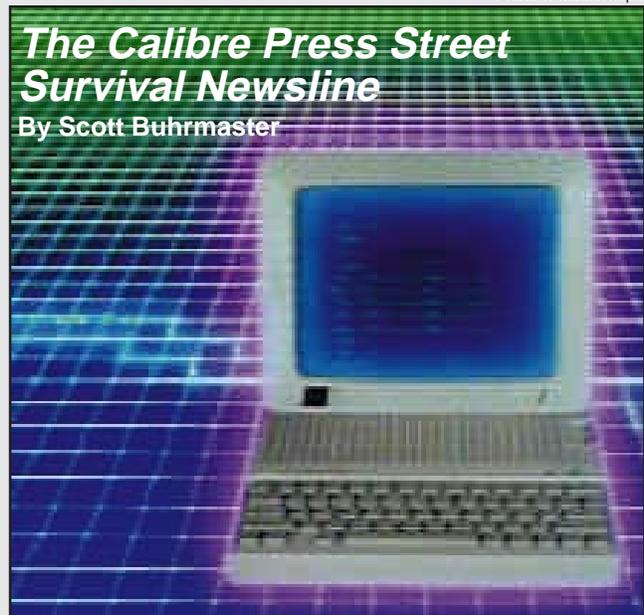
The *Bulletin* staff is always on the lookout for dynamic, law enforcement-related photos for possible publication in the magazine. We are interested in photos that visually depict the many aspects of the law enforcement profession and illustrate the various tasks law enforcement personnel perform.

We can use either black-and-white glossy or color prints or slides, although we prefer prints (5x7 or 8x10). Appropriate credit will be given to contributing photographers when their work appears in the magazine. We suggest that you send duplicate, not original, prints as we do not accept responsibility for prints that may be damaged or lost. Send your photographs to:

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Focus on Technology

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Imagine an officer on the street encountering a suspect who appears to be unarmed. Searching him, the officer finds no guns or knives. But, he is carrying a weapon. In his mouth, he has a concealed single-edged razor blade, which he has trained himself to quickly access and use to brutally maim or even kill an unsuspecting officer.

A corrections officer in an East Coast prison discovered that a number of inmates had used this deadly tactic prior to their incarceration. Offenders first casually position themselves behind their victim. Then, they grab the victim from behind, squeezing the arms to the body in a bear hug. Next, using their tongue, they guide the blade from between the cheek and gum to secure it between the teeth with the blade facing out. Finally, moving their head from side to side, they slash at the victim's neck, attempting to slice the jugular vein.

Across the country, a corrections officer at a West Coast maximum-security prison uncovered a ballpoint pen that an inmate had modified to serve as a biological weapon. He had filed the tip of the ink cartridge to an arrow-sharp point, then emptied the tube by heating the ink inside and letting it drip out. Fortunately, this tube remained empty, but it could have been filled with a number of

contaminates, from feces to AIDS-tainted blood. When launched using the pen's spring, the dart could have penetrated an officer's skin and deposited its toxic payload.

Law enforcement officers around the world were alerted to these potentially lethal practices through the *Street Survival Newslines*, a free, electronic-mail-based training service provided by Calibre Press, which also conducts training seminars and publishes training materials. The Calibre Press research team writes the *Newslines* articles, which provide life-saving tips and other vital information at least twice-weekly to over 30,000 subscribers worldwide.

Any sworn law enforcement officer with e-mail capabilities can subscribe to the *Newslines*. Members consist of officers from all levels of law enforcement—from front-line troops, federal agents, and trainers to investigators and ranking administrators—and from all sizes and locations of departments—from small, rural departments to large, urban forces to federal agencies.

Why the *Newslines* Was Created

Before they ever step foot on the street, law enforcement officers receive training in everything from defensive tactics to constitutional law. Throughout their careers, they attend in-service training and seminars to supplement their skills and knowledge. Yet, as quick-thinking criminals devise ways to stay ahead of law enforcement, even the most well-trained officer can find it difficult to keep up.

The *Street Survival Newslines* was created to fill this void. By delivering current training information on a regular basis, it helps keep officers sharp. In addition, an archive of back issues provides readers with a reference guide.¹ Moreover, the immediacy of electronic delivery allows the *Newslines* to quickly alert officers to such important information as potential dangers they face on the street or a court decision that affects how they perform their jobs.

Indeed, the *Newslines* covers a wide variety of topics. Transmissions have focused on everything from improvised weapons, officer-involved lawsuits, gang-related intelligence, and new investigative techniques to how officers and departments can cope with line-of-duty deaths, how they can effectively

handle stress, and how they can use other officers' successes or misfortunes to better their own performance. Sometimes, law enforcement researchers want to relay the results of recent studies and the *Street Survival Newslines* gives them the means to do so.

Some articles pertain to specialized topics, such as new Special Weapons and Tactics team techniques or innovative uses for police canines. Yet, even these articles contain information applicable to all officers, and *Newslines* staff writers emphasize these points. Finally, periodic doses of humor help officers cope with the stresses of police work.

How the *Newslines* Has Helped Officers

Not long after the *Newslines* transmitted the razor blade alert, an officer from an East Coast department who had read the article reported that a fellow officer had encountered an individual who had pulled a single-edged razor blade from his mouth. The alert officer avoided injury, while the suspect was charged with carrying a concealed weapon. This represents merely one of the ways that the *Newslines* benefits its subscribers.

For some officers, the *Newslines* represents their only source of continuous training. Budget constraints make ongoing training impossible for these officers, so they look to the *Newslines* to receive current information on important topics.

The *Newslines* also serves as a forum for officers to share their experiences and express their concerns and ideas. One popular feature is the *Street Survival Newslines Mailbag*, which consists of a random selection of e-mail feedback from members, who share their thoughts on recent transmissions, new crime-fighting techniques they have learned recently, or general observations on the state of law enforcement today.

Many officers find that the *Newslines* confirms that the problems they face on the street are not unique. A member in a small, rural department in Alaska can read about another member from a large,

urban department on the East Coast facing the same problems. In short, *Newslines* articles often help officers see that they are not alone.

Newslines members even had input on a U.S. Supreme Court case with major implications for law enforcement. A *Newslines* transmission advised officers of a pending Supreme Court decision that would affect the way they served warrants and asked them to e-mail their experiences in the field. Several of their responses were included in a brief submitted to the Court on behalf of law enforcement, thus giving officers a voice in America's highest court.

Newslines members also can influence the public's perception of law enforcement and counter negative press. Such an opportunity occurred when the *Newslines* discussed an article published in a major newspaper that reflected negatively on police officers. Two days later, the editorial section of that newspaper was

laden with letters from *Newslines* members from around the country.

How Officers Use the *Newslines*

Officers can retrieve *Newslines* transmissions any time, day or night. Some members receive the *Newslines* at their departments and read them just before they go on duty. Others read them when they get home.

Newslines members also use transmissions in a variety of ways. Many read the transmissions first, then print them out and distribute them to all of the officers in their departments. Others post the articles on department bulletin boards or keep them in binders in roll-call rooms so every officer can view them. Some departments read the *Newslines* during roll call, and some officers keep them in their patrol cars for ready reference.

Newslines members in other countries translate the transmissions, then distribute them to fellow officers. Recently, a member from Finland received permission to translate the *Newslines* into Finnish so that he could share it with 8,000 fellow officers.

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Security Management for a Major Event

By CHARLES W. SHERWOOD, Sc.D.



Managing security for a major event is one of the most formidable tasks that a police manager can face. Security for these events involves the participation and resources of federal agencies, state and local police departments, college and university police, transportation police, and a host of other law enforcement organizations. Each of these agencies has its own mission, jurisdiction, legal authority, culture, management philosophy, and operating policies and procedures. Security managers must work with these organizations and, with their cooperation and assistance, coordinate an overall security plan for the event.

One such major event occurred a few years ago when the city of New Haven, Connecticut, and the surrounding area hosted the 9-day Special Olympics World Games for athletes with mental disabilities. The games required the cooperation of over six nearby cities and towns, involved more than 7,000 athletes from around the world, and attracted hundreds of thousands of spectators.

THE EVENT

Athletic events at the Special Olympics took place at a number of sites throughout the greater New Haven area including Yale University, Southern Connecticut State University, The University of New

Haven, and Albertus Magnus College. Additional competition sites were located in the municipalities of New London, Old Lyme, and West Haven. The games were highlighted by numerous special events and exhibits including a maritime festival, a theme park, parades, and a fireworks display on July 4th. The opening and closing ceremonies featured a variety of popular entertainers and the attendance of the President and First Lady. Over the course of the games, attendance reached an estimated 650,000.

The games' organizing committee performed the overall management of the Special Olympics. This committee managed over 100



Dr. Sherwood, security management coordinator for the 1995 Special Olympics Security Committee, is the director of the South Central Criminal Justice Administration in New Haven, Connecticut.

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...it is essential that security managers establish objectives early on and clearly communicate those objectives to all personnel.
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other committees which, in turn, were staffed by more than 30,000 volunteers. The security committee comprised 130 civilian and sworn personnel, representing 35 agencies. The committee included law enforcement representatives from federal, state, and local government; college and university police departments; railroad police agencies; hospital police departments; private security services; the U.S. Attorney's Office; the State's Attorney's Office for the Judicial District of New Haven; and a regional police management services organization.

THE PLANNING PROCESS

Objectives

Security managers must allot sufficient time for planning complex events of this scope because planning is the primary management function upon which all other management functions are based.¹ Security planning for the Special Olympics began 2 years before the

opening ceremonies. This planning included examining the event's mission, defining the event's objectives, and determining how those objectives would be best achieved.²

When planning the security for a major event, security managers must establish objectives early on and clearly communicate those objectives to all personnel. Security managers first should familiarize themselves with the objectives of the event's organizing committee as well as those of the supporting committees because these objectives will affect the subsequent security plan. As with any organization, the objectives of all its parts must coincide. At the Special Olympics, some of the security objectives stipulated that:

- even with a comprehensive security presence in place, the games should remain an event of public participation;
- all interstate highways should remain open, even during peak traffic periods and major events;

- intelligence information should be as complete as possible and expeditiously transmitted to and from field officers; and
- a handbook on security issues should be available to all law enforcement officers.

Security managers should communicate frequently with event managers and other committee managers to ensure that the security unit's objectives do not conflict with the other units' objectives. This way, conflicts can be resolved at an early stage. For example, throughout the planning process for the Special Olympics, concerns about satellite parking areas and the transportation of spectators arose because many sites did not have sufficient on-site parking. The security committee assisted the transportation committee in addressing a number of security issues, including satellite parking lot safety and traffic control. Another issue involved determining the safest method to shuttle large numbers of people, many of whom did not understand English, to the correct satellite lot.

Resolution of these types of issues frequently requires attendance at a large number of meetings that may drain the security manager's time. Yet, such issues require constant monitoring because the objectives of units often change, especially early in the planning process, and the security manager needs to react to these changes. Although security managers should attend as many committee meetings as possible, and while continuity and centralized decision-making prove

helpful at this stage, they should involve additional personnel with different expertise in the security planning.

The Security Management Committee

Security managers must keep several important issues in mind when assembling the security management committee. All candidates for the committee naturally will owe a first loyalty to their own departments and organizations. While supportive of the committee's objectives, individual organization's objectives may take precedence. Therefore, security managers must reemphasize the committee's objectives and how each agency contributes to these goals on a regular basis to help maximize cooperation and commitment.

Security managers should know the value structure and culture of participating law enforcement agencies, either by reflecting upon past experiences with the organizations or by talking with others who have worked directly with them. This knowledge will help security managers better understand how each agency may interact with the others. For example, departments with community policing experience that have worked with diverse populations may work well together and prove particularly suitable for specific assignments. Similarly, agencies that are more technologically advanced and whose officers adapt well to computer applications may mesh well on highly technical assignments. Jurisdictional issues may limit these assignments, but when

flexibility does exist, knowing an organization's values and culture may prove helpful in deciding its role and with which agencies it would best work.

Security managers must identify decision-making power sources, especially those who will have the ultimate authority and jurisdiction over particular security issues or unexpected incidents ranging from natural disasters to bomb threats. The final authority may vary due to the situation but



Security planning for the Special Olympics began 2 years before the opening ceremonies.



likely will fall on representatives of the event's organizing committee, the security manager, or the head of an agency. Some final decisions may depend on a collaboration of the three. At the Special Olympics, for example, the U.S. Coast Guard assumed the lead role for incidents taking place on Long Island Sound, and the U.S. Secret Service handled all dignitary matters. Once the key decision makers are identified, security managers should attempt to solidify their support and encourage them to participate in the development and implementation of the security plan.

Finally, group dynamics can have a profound effect on committee management and limit its ability to make decisions. Individuals who work on security should come from varying backgrounds and have different areas of expertise. Ideally, this should make the successful implementation of solutions easier because more people are contributing to the problem-solving process. However, sometimes a few people with aggressive personalities can dominate a group and diminish its effectiveness. Some group members may be close minded on specific topics and reject actions that seem contrary to their beliefs. Other members may be indifferent because, ultimately, providing security for major events is an impermanent task, and the security mission will end with the conclusion of the event. On the other hand, another group dynamic can occur when members lose their ability to evaluate critically due to the need to conform.³ This dynamic, called "groupthink," can result in poor decision making.⁴

Additional Considerations

After identifying its objectives, the security management committee should list and analyze alternate ways of achieving them. On what assumptions is an alternative based? What is the real issue that must be addressed? Will the alternative resolve the issue? Can the alternative be implemented successfully? As these questions are answered, the best alternative for reaching each security objective will emerge so that a course of action can be developed.

The preparation of the security handbook represents one example of this process. The security management committee considered a number of alternatives regarding how to best present a variety of critical event information, what information to include, and how to print and distribute the booklet in a timely manner.

Throughout the planning process, the security management committee must identify and evaluate factors that may help or hinder its objectives. For the Special Olympics, the strongest aids to formulating and implementing a plan included the great sense of cooperation and commitment of resources from the police organizations. However, factors such as a department experiencing labor unrest or severe budgetary constraints can limit the ability to reach an objective by affecting the commitment of personnel and other resources.

Security managers may need to research the legal requirements needed for officers of one jurisdiction to enter another jurisdiction and assist with police operations. While some of these factors reach beyond the ability of security managers to control, they must be identified and assessed before appropriate actions, if necessary, can be taken.

Security managers also may need to become knowledgeable about other cultural and environmental issues, such as any conflicts that may exist between participants, event attendance projections, and traffic concerns. A network of resources can monitor and communicate this information to

other committees. For example, at the Special Olympics, the Department of State handled international information and the games organizing committee monitored attendance projections.

ORGANIZATIONAL ISSUES

Organization is the process of establishing orderly uses for all management resources.⁵ Managers use organization to establish the relationships between resources and



Security managers should communicate frequently with event managers and other committee managers.



define how those resources will be used.⁶ As the security plan develops and the number of agencies involved grows, a more formal organizational structure should evolve to identify overall security functions and agency responsibilities. An organizational chart can help clarify how the various functions and agencies interrelate and how individual activities contribute to the overall security mission.

Security managers must foster coordination among the agencies involved to ensure that the activities of the independent departments are integrated sufficiently. With so many agencies participating, each with their own authorities and chains of command, expecting members of other departments to

adhere to a traditional management hierarchy or another organization's chain of command may not be feasible. Similarly, even if sufficient time existed to establish formal rules and procedures, they likely would be counterproductive because, first and foremost, the members of each agency must follow the rules of their particular organization.

Strengthening lateral relationships appears to have the most potential for supporting the coordination of these types of events. Lateral relationships cut across the chain of command and allow individuals to exchange information at the levels where it is most needed. The very existence of the security management committee promotes lateral relationships because by definition, the committee is staffed by members of different organizations who channel their efforts and expertise toward a common objective. One-on-one communication between the persons who actually work on a problem helps to alleviate confusion, prevent duplication of effort, and reinforce commitment to the chosen plan of action.

RESOURCES

Resource availability represents another important security issue. Security managers should compare the number of officers available in the law enforcement agencies involved and assess how many officers they will need. This projection should take into account the number of days and hours per day that each officer will have to work. Security managers also should consider officer fatigue during extremely long events.

If the number of agency personnel available cannot meet the anticipated needs, security managers should seek additional personnel elsewhere and consider the legal requirements of obtaining assistance from other municipal departments. Police agencies in South Central Connecticut participate in a mutual assistance compact that researches the legal and financial obligations of borrowing and providing personnel. Because not all areas have formal compacts, security managers should research these questions at least 1 year before the event.

As planning for a multijurisdictional event develops, security managers will need to contact a number of agencies with various jurisdictions for support, including the FBI, the U.S. Secret Service, the Department of Defense, and the U.S. Coast Guard. State agencies, such as the state police, national guard, and the Department of Environmental Protection, may also need to be enlisted. Agencies whose primary jurisdiction involves providing police services for transportation systems also should be represented. This may include the Federal Aviation Administration and railroad police departments. University and college police departments may be involved, especially regarding athlete housing. The services of private and volunteer security organizations also may prove valuable.

Individuals and units with special expertise can be very important. These units may include explosives disposal, air support, marine support, emergency services units, canine patrols, and horse-mounted units. They also may include

specialized equipment, computers, and management support. The presence of police legal advisors or representatives from the U.S. Attorney's Office and state attorney's office can provide valuable legal advice. Security managers should make arrangements for representatives from the National Weather Service or Federal Emergency Management Service Administration to stay in close communication with security personnel



with information on weather conditions. For the Special Olympics, the U.S. Department of State provided protocol and diplomatic immunity information and the Department of Immigration and Naturalization supplied guidelines for handling incidents involving defections or requests for asylum.

Finally, determining resource availability involves more than ascertaining committed personnel and cooperating organizations. Security managers must ensure the availability of the equipment needed for the assigned tasks. This includes automobiles, truck transports, motorcycles, barricades, traffic cones, and reflective vests.

Security managers must confirm the availability of appropriate housing and office equipment and make arrangements for on-site food and supplies to meet the needs of the assigned personnel.

Resources at the event sites must also be assessed. The most critical sites are those that have large or otherwise unusual events or those sites where dignitaries are present. Security management committee staff should visit and revisit all locations to determine site layouts, tent or building placements, the location of walkways and driveways for pedestrian and vehicular traffic, electrical and water sources, lighting availability, and the presence of fences or barricades. The security management committee should work actively with other committees to ensure the suitability of each of these sites for security operations.

SECURITY OPERATIONS CENTER

The organization of the security operations center and determining its site and operating staff represent some of the most significant decisions the security management committee makes at a multijurisdictional event. The center brings all of the participating agencies together at one location to better facilitate information exchange and coordination. This centralization deters other agencies from functioning too independently and making their own operational decisions.

At the Special Olympics, the operations center housed approximately 12 people while events were taking place, including personnel

from the various municipal police departments, the Connecticut State Police, the Coast Guard, air traffic control officials, campus police, and the state's attorney's office. Civilian dispatchers handled telephone and radio transmissions and other civilian personnel handled day-to-day record keeping. Although staff was reduced when events were not occurring, the center remained open 24 hours a day.

The security operations center ideally should be located in the same building as the management committee for the overall event. This allows for more efficient communication between security managers and event organizers, especially during times of crisis. However, it is crucial that only law enforcement personnel and those with appropriate clearances are allowed into the security operations center offices.

The security operations center likely will face some of the same logistical concerns police departments handle every day, such as the need for security clearance, space, and equipment. The security offices must have a system of access control to clear persons entering. At the Special Olympics, Connecticut sheriffs at the main entrance checked security credentials and cleared visitors. Sufficient office space, furniture, and communications equipment, including telephone, radio, computers, and fax equipment are essential.

If necessary, the security management committee should make arrangements for personal needs, such as meals and sleeping accommodations. The Salvation Army

provided meals for security personnel during the Special Olympics. Briefings should occur as events dictate. Security personnel should keep accurate records to combat potential civil liability actions as well as to assist in the preparation of an after-action report.



Security managers must ensure the availability of equipment needed for the assigned tasks.



COMMUNICATIONS

Communications represent a cornerstone to coordinating a multijurisdictional operation. Early in the planning process, security managers should assess the available radio equipment, including in-house radio capabilities, to ensure that the radio channel can support agency communications for both the event and the agency's normal police operation. If a second channel exists, such as an interdepartmental frequency, it should be made available. During the Special Olympics, a regional law enforcement channel was used widely and served as the primary frequency for those events where several different organizations worked at one site. If inadequate radio resources still pose a problem, security

managers should send applications for additional equipment and frequencies to the federal government, particularly the Department of Defense special events section. These applications should be sent 6 to 8 months prior to the event to allow for processing time.

Radio channels can be overused easily during times of high personnel deployment. To guard against this, all officers should carefully follow radio usage procedures and not override the messages of others. However, when the threat of overloading a frequency remains, security managers must take steps to access other channels and limit the number of individuals operating on any one channel.

During the security planning process, security management committee staff should review sites to ensure the installation of enough telephones. Site reviews should take place more than once to accommodate changes. Each agency will require telephones, and several telephones should be placed in conference rooms or other rooms where decision makers will gather in the event of a crisis. Telephone installation should follow a timetable that permits the distribution of telephone numbers to all appropriate personnel well in advance of the major event.

Similarly, fax equipment and the required lines should be obtained and installed. At the Special Olympics, the fax proved particularly useful for sending broadcasts such as weather advisories and intelligence briefs, as well as for broadcasting messages pertaining to specific incidents and situations.

Sufficient fax machines in the operations centers will avoid message delays and overloading communication lines.

Paging devices and cellular telephones will prove invaluable, and security managers should arrange for the distribution of this equipment to all appropriate personnel. Of course, cellular telephone users should exercise caution during highly confidential conversations. Further, other personnel also may use cellular phones, creating congestion. If the magnitude of the event warrants, security managers should consider establishing a dedicated satellite linkup to handle phone traffic.

INTELLIGENCE

The Integrated Threat Analysis Group (ITAG) gathered and evaluated intelligence for the Special Olympics. While ITAG personnel served as members of the security management committee, the ITAG functioned with a greater degree of autonomy. The ITAG collected, analyzed, and disseminated intelligence information related to terrorism, public disorder, and criminal activity that may have threatened the security or integrity of the games. Because the security operation affected a large number of agencies that came with their own resources and expertise, the security management committee encouraged as many individuals as feasible to participate in the ITAG. Information was gathered and analyzed from many different perspectives, creating a better environment to disseminate information efficiently and answer any follow-up inquiries.

ITAG operations should begin sufficiently in advance of the major event to allow for maximum efficiency. For the Special Olympics, the ITAG was fully-staffed and operating at an off-site location 2 weeks before the opening day to permit the representatives from the various agencies to establish some camaraderie and begin gathering information.

Photo by Mark Ide



The ITAG operated at an off-site location for two reasons. First, objective information-gathering operations are best located away from the actual decision-making process and potential subjective influences. Second, the Special Olympics ITAG required sophisticated computer networks and other equipment that would have been difficult to set up in a temporary operations center. The needed computer systems were already in place at the off-site location.

The intelligence function represents an important component in the

overall security operation because it allows law enforcement to proactively ferret out and address potential problems before they become incidents. To do this effectively on an interagency basis, organizations must choose their representatives carefully. The individual chosen should have a knowledge of intelligence gathering and evaluation and possess the ability to work with others for long hours and under conditions which may become stressful.

Any suspicious activity or other circumstance that may need further assessment should be immediately reported to the ITAG for evaluation. ITAG intelligence reports should include the time of the report, an evaluation of the information's reliability, and any actions recommended. The ITAG also should prepare and transmit a daily intelligence brief containing information on events that will require additional law enforcement attention, visiting dignitaries and their protection schedules, threat analysis, information on international considerations, and general remarks.

All officers involved with security should remain aware of threats directed at dignitaries, officials, and athletes. They should report any unusual loitering, packages, or surveillance activity and watch for persons using false credentials and for any planned or spontaneous demonstrations. They also should pay special attention to high-profile targets, such as national landmarks, transportation systems, government buildings, and facilities housing hazardous waste.

SECURITY HANDBOOK

A major event such as the Special Olympics brings a variety of new challenges for all law enforcement personnel involved in the security operation. In order to help meet these challenges, each officer should receive a handbook to use as an easy reference. The Special Olympics handbook was 105 pages and designed to fit in a pants pocket. The handbook should contain specific sections that are germane to the event. An introductory section should include a brief description of the event, the most popular attractions, and the security management committee's mission statement. It also should contain information about the agencies involved and how the security planning took place. Any special information about event participants also belongs in this section. The mission statement should briefly and clearly state why the security management committee exists.

The next section of the handbook should contain material on the overall event's organization and command structure. This is especially important for multijurisdictional events where functional responsibilities easily can blur. An organization table, including a list of command centers, their staffs, and phone numbers, should be included in this section.

Possibly the most important section of the handbook deals with security operations. This part should contain guidelines detailing how to handle specific incidents. The number and type of incidents included in the handbook and the guidelines for dealing with them

will vary according to several factors, including the nature of the event and the jurisdictions handling it. The final section should provide necessary support information, such as a list of participating nations, parking and bus information, daily schedules of competition and special events, and a directory of security personnel.

The handbook must balance the need for providing information on a wide range of incidents with the

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need to present the information in a clear and concise format. When developing the handbook, the security management committee should make every effort to maximize input from each participating agency. While the security management committee may be responsible for gathering handbook information, all participating agencies should offer ideas concerning specific situations. Differing ideas about how to handle an incident must be debated and agreed upon during the writing process. Guidelines that have not been agreed to or have been discarded can breed confusion, reduce coordination, and result in serious managerial and legal problems.

Handbook distribution should take place 2 to 3 weeks before an event begins to allow adequate time for review. In many cases, handbook information may represent significant departures from many individuals' current methods. The amount of advance time, however, must be balanced against the likelihood of last minute changes, resulting in incorrect or incomplete information.

CONCLUSION

Security management for a major, multijurisdictional event involves addressing a myriad of issues, many of which the security manager will encounter for the first time. Interagency coordination remains paramount for any large-scale security operation, and it is the security manager's role to ensure that the responsibilities of each participating agency are clearly defined. Strong commitment to proper planning and careful coordination of resources can make managing security at a major event one of the most satisfying experiences in a law enforcement career. ♦

Endnotes

¹ S. Certo, *Modern Management* (Englewood Cliffs, NJ: Prentice Hall, 1997), 136.

² *Ibid.*, 134.

³ J. Schermerhorn, Jr., J. Hunt, and R. Osborn, *Managing Organizational Behavior* (New York, NY: John Wiley and Sons, Inc., 1994), 310.

⁴ *Ibid.*, 310.

⁵ *Supra* note 1, 228.

⁶ *Ibid.*



Physical Expansion Without Fiscal Pain

By Michael P. Sullivan and Richard A. Krizan

Today's law enforcement administrators face many complex situations. One time-consuming dilemma involves balancing the increased demand for services against the budgetary constraints imposed by rising taxes. Frequently, administrators encounter major problems when they try to secure funding for expanding their facilities to meet these demands. Traditionally, individuals charged with appropriating taxes for operational budgets generally could justify funding for maintenance or improvement of existing facilities more readily than the purchase or construction of new ones. Lately, high taxes have made citizens scrutinize tax-based projects, while politicians who review and approve budgets have become more aware of their constituencies' moods toward increases in property taxes.

Moreover, grants and program money for such endeavors as community policing, antigang units, counterterrorist groups, or expanded drug enforcement units prove popular with taxpayers, but often add to administrators' budgetary woes. Each new unit created with grant or program funding brings a need for additional space, such as office space or storage space for equipment or specialized vehicles. Often, such grants only cover operating expenses, forcing receiving agencies to provide matching funds for the physical facilities necessary to properly

Police Practice

administer the programs. This anomaly causes many law enforcement administrators to accept or reject this "free money" without knowing if supporting budgetary requests for additional facilities would be approved or denied. Several alternatives exist for administrators to consider: turn down the grants, rent additional space, build new facilities, or buy existing ones. Obviously, the most desirable would have the least fiscal impact while meeting the department's needs.

ONE DEPARTMENT'S SOLUTION

The Jefferson County, Wisconsin, Sheriff's Department discovered an innovative solution that may help financially strapped administrators in search of affordable space. The department consists of 90 full-time deputies, 6 part-time deputies, and 23 technical, clerical, and support personnel. Located in southeastern Wisconsin between Madison and Milwaukee and about 80 miles from Chicago, the department serves a growing population fed by the nearby metropolitan areas. In 1992, the department completed a new headquarters and jail while renovating the courthouse. Although the current facilities remain adequate, the department projected a future need for space to store seized/impounded vehicles and bulk/surplus food for the jail kitchen, as well as housing space for such auxiliary units as the water search and rescue team, snowmobile patrol, and drug task force.

The department began exploring solutions to this problem and discovered that several public utilities, private businesses, and government agencies in the area had downsized or merged and moved their operations to smaller facilities. Many of the unused, often unrentable buildings left behind proved suitable for the department's requirements with little or no renovations needed. Additionally, such facilities remained vacant, with little prospect of being leased or rented, because of the lack of business density in the sparsely populated suburban fringe or rural areas. Therefore, these buildings could be obtained at far more reasonable cost than constructing new facilities. Similarly, by contacting commercial real estate agents, local utilities, military reserve or National Guard units, other law enforcement

administrators can determine if such buildings exist in their communities.

Identifying the Appropriate Building

When looking at existing buildings, law enforcement administrators should consider three main issues: location, configuration, and price of the potential facility. First, as with any real estate transaction, location remains the primary issue. Administrators should ensure that potential buildings are close enough to their existing facilities to promote efficient operations. Second, administrators should consider if their proposed users can adapt to the existing configuration of the structures, or if necessary renovations will prove too costly for their budgets. Although existing buildings may not meet all of their needs, administrators should remain flexible and adjust their expectations to take advantage of potential bargains. Third, price becomes the final decision maker, including the cost of any needed improvements. Ultimately, administrators must determine if buying and refurbishing an existing building proves more cost-effective than building a custom facility. By remaining flexible in their expectations, administrators can find appropriate, existing buildings that can be purchased and modified at reasonable cost to meet their needs.

Considering location, configuration, and price, the Jefferson County Sheriff's Department discovered a nearby former telephone utility building, which had remained vacant for about a year after the company downsized and moved to a smaller facility. An initial investigation revealed a well-maintained structure that appeared reasonably priced and capable of meeting many of the department's immediate and future needs. With a little effort, the department found a cost-effective solution to their present and anticipated storage problem.

Securing Funding

After considering these three issues, administrators must ensure that they can obtain their

communities' financial support for such an undertaking. To this end, the Jefferson County Sheriff's Department notified all police chiefs in the county about their proposal. Many of the chiefs wrote letters or verbally contacted county government officials supporting the project. The department also invited these officials to tour the facility during the planning stage, and consulted them about amending the previously submitted budget to include additional funding, which they ultimately granted. By involving local government authorities from the beginning, administrators can explain the need for the facilities, demonstrate the cost-effectiveness of purchasing an existing structure over constructing a new building, and discuss various methods of financing such efforts.

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Inspecting the Premises

After determining that facilities meet their departments' needs and securing preliminary funding approval, administrators should make a detailed inspection of the buildings, keeping their requirements and budgets in mind. Administrators should work with various trade professionals and obtain estimates for any necessary repairs or renovations. Most reputable trade professionals will conduct such inspections for no, or very low, cost because their estimates can lead to actual contracts.

During an inspection, administrators should investigate the environmental background of the building to ascertain whether any hidden cleanup costs exist. The Jefferson County Sheriff's Department interviewed present and former employees of the telephone utility about environmental procedures used at the site and verified the records pertaining to the removal of a gasoline tank.

Administrators also should check the exterior of the building and its overall structural integrity, including the condition of the paint or siding material; the roof, windows, and doors; and the fencing and adjacent paved areas. Also, they should pay close attention to the general condition of the interior

of the facility, including the floors, ceilings, and walls; the plumbing, electrical, heating, and air conditioning systems; and the door locks and other security features. The Jefferson County Sheriff's Department found the former telephone facility in excellent condition with good security features, including a coded door lock system, steel doors, intrusion alarms, and security fencing and lighting.

Moreover, administrators should document all deficiencies for use later as a bargaining tool. In many cases, sellers must ensure that some systems meet building codes prior to selling the property. In others, sellers may consider paying for necessary repairs to hasten the sale.

Making an Offer

Prior to making a formal offer, the Jefferson County Sheriff's Department asked the owners of the telephone utility to donate the building in the interest of public safety. Although they declined, they agreed to sell the facility to the department at a reduced price. Administrators should try this approach before making an actual offer. Some building owners may contemplate donating their facilities as a gesture of public goodwill and as a possible tax deduction.

However, if this avenue proves unsuccessful, administrators must make a formal offer to purchase the facilities. This process should be undertaken by individuals with expertise in this area, including county corporation counsels or municipal attorneys. These professionals can ensure that no defects exist in the title to the land or buildings and that no environmental issues remain unresolved. Also, administrators should provide all repair and renovation estimates to these individuals for use in the negotiation process.

The Jefferson County Sheriff's Department subsequently purchased the telephone utility structure for \$20.55 per square foot, half the current regional cost of constructing a new facility, and then made basic, minimal improvements, such as installing telephone and computer lines, upgrading fire and

intrusion alarms, and cleaning and painting the interior and exterior. The building now houses the department's water search and rescue team's equipment and also provides office space for the team and the department's drug unit, as well as storage space for surplus food for the jail's kitchen.



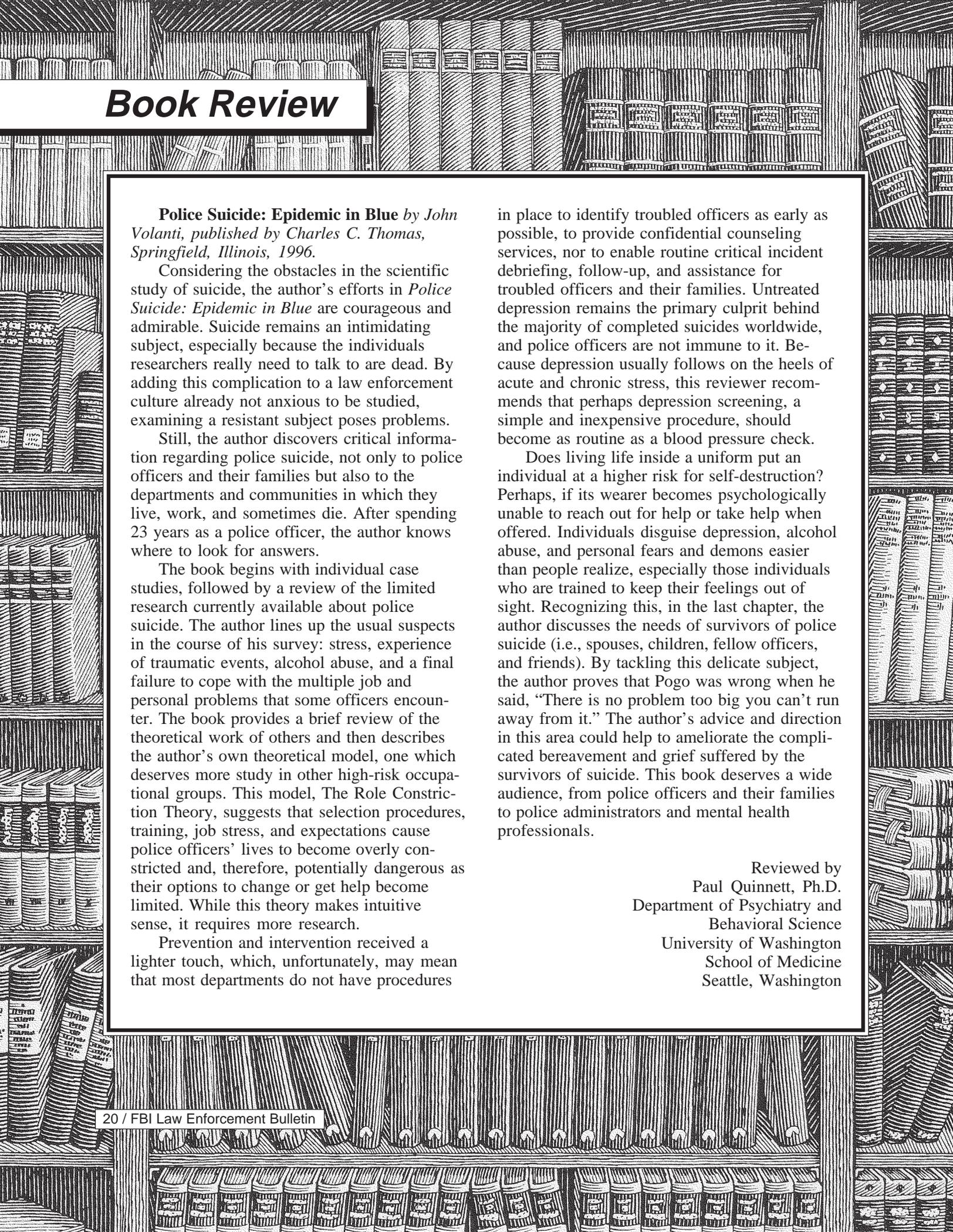
CONCLUSION

Faced with increasing demands for service and decreasing budgets, law enforcement administrators must find creative and innovative ways of stretching their shrinking dollars. New programs, whether funded through grants or tax levies, require additional space for offices and storage. The Jefferson County, Wisconsin, Sheriff's Department discovered a unique

and cost-effective way to expand the physical size of their facility by purchasing an existing structure from a public utility that had downsized and moved its operations to a smaller establishment.

Law enforcement administrators faced with similar situations may consider this approach as a viable solution. Several factors prove critical when deciding if this method will work for their departments, including finding appropriate buildings, obtaining financial support, and examining the structures before making an offer. Moreover, administrators must ensure that purchasing an existing facility not originally built for their purposes proves more cost-effective than constructing a new one designed specifically for their needs. Many times, however, existing vacant buildings in good locations become a hidden treasure for law enforcement administrators strapped for space and funding. ♦

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Book Review

Police Suicide: Epidemic in Blue by John Volanti, published by Charles C. Thomas, Springfield, Illinois, 1996.

Considering the obstacles in the scientific study of suicide, the author's efforts in *Police Suicide: Epidemic in Blue* are courageous and admirable. Suicide remains an intimidating subject, especially because the individuals researchers really need to talk to are dead. By adding this complication to a law enforcement culture already not anxious to be studied, examining a resistant subject poses problems.

Still, the author discovers critical information regarding police suicide, not only to police officers and their families but also to the departments and communities in which they live, work, and sometimes die. After spending 23 years as a police officer, the author knows where to look for answers.

The book begins with individual case studies, followed by a review of the limited research currently available about police suicide. The author lines up the usual suspects in the course of his survey: stress, experience of traumatic events, alcohol abuse, and a final failure to cope with the multiple job and personal problems that some officers encounter. The book provides a brief review of the theoretical work of others and then describes the author's own theoretical model, one which deserves more study in other high-risk occupational groups. This model, The Role Constriction Theory, suggests that selection procedures, training, job stress, and expectations cause police officers' lives to become overly constricted and, therefore, potentially dangerous as their options to change or get help become limited. While this theory makes intuitive sense, it requires more research.

Prevention and intervention received a lighter touch, which, unfortunately, may mean that most departments do not have procedures

in place to identify troubled officers as early as possible, to provide confidential counseling services, nor to enable routine critical incident debriefing, follow-up, and assistance for troubled officers and their families. Untreated depression remains the primary culprit behind the majority of completed suicides worldwide, and police officers are not immune to it. Because depression usually follows on the heels of acute and chronic stress, this reviewer recommends that perhaps depression screening, a simple and inexpensive procedure, should become as routine as a blood pressure check.

Does living life inside a uniform put an individual at a higher risk for self-destruction? Perhaps, if its wearer becomes psychologically unable to reach out for help or take help when offered. Individuals disguise depression, alcohol abuse, and personal fears and demons easier than people realize, especially those individuals who are trained to keep their feelings out of sight. Recognizing this, in the last chapter, the author discusses the needs of survivors of police suicide (i.e., spouses, children, fellow officers, and friends). By tackling this delicate subject, the author proves that Pogo was wrong when he said, "There is no problem too big you can't run away from it." The author's advice and direction in this area could help to ameliorate the complicated bereavement and grief suffered by the survivors of suicide. This book deserves a wide audience, from police officers and their families to police administrators and mental health professionals.

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Suicide by Cop

By DANIEL B. KENNEDY, Ph.D.,
ROBERT J. HOMANT, Ph.D.,
and R. THOMAS HUPP, M.A.

Upon hearing the term “suicide by cop,” the average person would probably think of police officers who take their own lives. However, to law enforcement officers, this phrase refers to an individual who wishes to die and uses the police to effect that goal. The following case serves as an example of this phenomenon.

A terrified woman called police because her ex-boyfriend was breaking into her home. Upon arrival, police heard screams coming from the basement. They stopped halfway down the stairs and found the ex-boyfriend pointing a rifle at the floor. Officers observed a

strange look on the subject’s face as he slowly raised the rifle in their direction. Both officers fired their weapons, killing the suspect. The rifle was not loaded.

Assuming the incident happened as described, suicidal intent by the ex-boyfriend appeared to be the most reasonable explanation for the shooting. However, critics of police shootings may consider it far-fetched that the ex-boyfriend would threaten police with an empty gun. They may speculate that he wanted to surrender, or that “trigger-happy” police merely assumed the subject might aim the gun at them. Although the term suicide by cop has been discussed

in social-science literature,¹ in police training material, and in newspaper accounts of fatal shootings by police, much remains to be learned.

Questions arise concerning whether a shooting is necessary or avoidable in any police shooting even when it is attributed to suicide by cop. Analyzing such incidents by considering possible suicidal motivations would prove beneficial for police training, for police-community relations, for helping officers deal with postshooting stress, and for determining civil liability.

Previously, administrative reviews of police shootings often focused too narrowly on use-of-force

issues, in the sense that they tried to determine only if police selected the appropriate level of force needed to subdue the subject. In many cases, however, it seemed the subject actively encouraged or challenged the officer to use deadly force. While the truth of such situations can seldom be known with certainty, a more systematic exploration of their frequency may shed some light on these complex situations. As a result, the authors found a need to further study the phenomenon of suicide by cop.

OCCASIONS OF SUICIDE BY COP

Police may confront shootings motivated by suicidal subjects more often than reports indicate. In one case, an adult male drove his car onto the front lawn of police headquarters in downtown Detroit. He exited his vehicle, took out a handgun, and began shooting at the building. Several police officers

returned fire until they killed the subject.

In another case, Philadelphia police responded to a burglary-in-progress call at a local school. Upon arrival, the suspect fired twice at the police. A subsequent chase through the school corridors followed. A police dog eventually cornered the subject, and as the officers approached, they found the subject crouched and pointing a gun at them. Police fired, killing the subject. Police later found that the subject's gun was a starter pistol, incapable of firing live rounds. Furthermore, family members later identified the subject's voice on police tapes as the person who placed the initial burglary call to police. Finally, police learned that the subject had been hospitalized as the result of a suicide attempt.²

Other occasions exist in which the suicidal intent of a subject is clearly evident, but due to particularly patient and attentive police

work, a shooting does not occur and a death is avoided. Such an example occurs in the following case.

An officer patrolling a hotel parking lot observed a man pushing a woman onto the floor of a vehicle. The woman was nude and bloody from the waist down. The officer approached the vehicle and noticed that the man's blue jeans were covered with blood. The man began walking toward him yelling profanities along with "Go ahead,...kill me." As the officer drew his weapon and pointed it at the subject, he ordered the man to the ground. The subject kept walking toward him saying, "kill me, you chicken. Shoot me in the head, kill me...." The officer backed up, trying to keep a safe distance, as the subject kept putting his hands in his pockets and behind his back. Backup officers surprised the subject from behind and subsequently subdued him.³ Each of the above



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cases reasonably implies that the suspects acted in such a manner to ensure that police officers would shoot them.

HIDDEN SUICIDE

The concept of hidden suicide illustrates the complexities of suicide by cop. Many deaths appear to result from natural or accidental causes that might better be classified as forms of suicide. Some researchers have long suspected that many single-occupant car crashes, especially those that occur under excellent driving conditions, involve suicidal motivations.⁴ Some researchers also attribute certain airplane crashes,⁵ parachute fatalities,⁶ and workplace fatalities⁷ to suicidal motivations. Furthermore, several opponents of the death penalty argue that the existence of capital punishment may induce suicidal people to commit murder in order to die by execution.⁸ Similarly, individuals who suddenly experience a homicidal rage may be described as suicidal because their actions often result in their own deaths.⁹ This can occur either at the hands of intended victims who are defending themselves or due to the intervention of authorities. The ambiguity involved in determining whether a death is suicidal has given rise to the concept of a psychological autopsy and the investigative specialty of equivocal death analysis.¹⁰

Most relevant to the concept of suicide by cop is the phenomenon known as victim-precipitated homicide. By initiating an assault or otherwise provoking someone, suicide-prone individuals achieve their goals without

losing self-esteem. Furthermore, police officers frequently have to deal with individuals who display a good deal of impulsivity and self-destructive behavior.¹¹

CATEGORIZING POLICE SHOOTINGS

In any modern democracy, the use of force by law enforcement officers is subject to a great deal of scrutiny. Even so, the lack of an



Police may confront shootings motivated by suicidal subjects more often than reports indicate.



effective centralized reporting system and other methodological problems have left researchers unable to determine the exact number of justifiable homicides by police each year.

In 1989, the FBI began to track the number of justifiable homicides by police. The average per year from 1988 to 1993 was 389.¹² While data prior to 1988 are more problematic, experts generally agree that a significant reduction in the use of deadly force by police officers has occurred. Whether as a result of increased professionalism, more restrictive policies, or civil litigation, police officers exercise far more restraint than in the past. Nevertheless, police use of

force remains the subject of intense national scrutiny.

DETERMINING SUICIDAL MOTIVATION

The authors conducted research to determine whether suicide by cop constitutes some meaningful percentage of police shootings. Additionally, the authors attempted to determine whether any particular circumstances distinguished suicide by cop from other police shootings. In order to obtain a representative sample of police shootings, the authors reviewed an electronic library, containing full-text newspaper articles, to obtain a broad sample of accounts of police shootings in which potential cases of suicide by cop could be found. The electronic library contained the full text from 22 newspapers, representing 18 metropolitan areas. A keyword search using the words "police," "shoot," and "citizen" produced 887 articles from January 1980 through June 1995. By eliminating duplicates and those articles that did not specifically describe a police shooting incident, the authors found 240 articles suitable for analysis.

Two experienced police officers with master's degrees in criminal justice rated the 240 incidents independently of each another. They cataloged the 240 incidents into one of five categories. Most of their ratings closely agreed. In fact, in 74 percent of the cases, their ratings were exactly the same.

Although no way exists to prove that a particular incident definitely involved suicidal impulse, these five categories and the

news stories that represent the cases help to illustrate the validity of the rating process.

1) *Probable Suicide*: The subjects show clear suicidal motivation, either by word or gesture or they confront the police with a dangerous weapon despite having no way to escape, virtually forcing the officers to shoot.

This category illustrates itself in the case of a Philadelphia man who brandished a gun and threatened to take his own life inside a police department. When officers tried to convince the man to drop the gun, he started saying, "Shoot me, shoot me." A police officer shot him, after the subject barricaded himself and pointed his gun at the officer.¹³

2) *Possible Suicide*: Subjects appear disturbed or otherwise act as if they do not care whether officers kill them; they may make a futile or hopeless escape attempt.¹⁴

The following case depicts this category. A man had an argument with his mother and sister, and they threw him out of the house. Five hours later he got into a confrontation with Ocoee, Florida, police. Officers first found the 33-year-old construction worker sleeping in his car. The subject ignored orders to exit the vehicle.

As an officer radioed for backup, the man climbed into the driver's seat, started the car, and accelerated directly toward another officer. The subject ran over one officer's foot, then accelerated

toward a second officer. The police shot and killed the subject.

3) *Uncertain*: Either too little contradictory information is given. Subjects may or may not have had some suicidal motivation. This category could be represented by a robbery suspect who gets shot after turning toward police officers with a weapon.¹⁵



Some researchers have long suspected that many single-occupant car crashes...involve suicidal motivations.



4) *Suicide Improbable*: Subjects' behavior give no overt indication of suicidal or self-destructive intent, and the behavior can easily be accounted for without assuming such motivation. The possibility of underlying suicidal intent cannot be ruled out.

This concept presents itself in the shooting death of a man taking part in a drug deal foiled by police. When the police confronted the group of men, one pulled a pistol and aimed at the officers, forcing the officers to fire.¹⁶

5) *No Suicidal Evidence*: Subjects clearly attempt to avoid being shot. If the situation involves an attempt to flee, a reasonable hope of success should appear.¹⁷

In one incident, the police shot a man in the leg after he pulled a knife and tried to drag an officer from an unmarked police car. While struggling with the robber, the officer managed to draw and fire his weapon. The police spokesman described the shooting as straightforward; the person robbing the officer was armed with a knife.¹⁸

ANALYSIS OF INCIDENTS

Demographics

The news articles occasionally included demographics for the civilians involved. The person was typically male (97 percent) and between the ages of 16 and 35 (68 percent). Homelessness or mental illness was identified in 14 cases (5 percent). In addition, the incidents usually involved uniformed, on-duty police officers. Occasionally, off-duty officers (13 percent) and plainclothes officers (12 percent) were involved. Additionally, a few cases involved narcotics officers, SWAT team members, members of special surveillance teams, detectives, and some special task force officers.

Suicidal Motivation

The authors found evidence of probable or possible suicidal motivation in 16 percent of the 240 incidents. They classified the vast majority of the incidents as

indeterminate, due to the lack of pertinent information in the news articles and a lack of follow-up articles. It is uncertain how many of these indeterminate articles might have indicated suicidal motivation if the articles provided more details. Of the 80 incidents that provided enough detail to classify, a surprisingly large 46 percent contained some evidence of probable or possible suicidal motivation.

The researchers used three variables to assess each of the 240 incidents. Those three variables included: lethality, circumstances, and precipitating events.

Lethality

With regard to lethality, 69 percent resulted in fatalities, 17 percent proved nonfatal, and in 14 percent of the cases, the outcome was unclear.¹⁹ Nonfatalities showed less suicidal motivation, but more evidence is needed to confirm this.

Circumstances

In categorizing the 240 incidents according to the crime category or reason for the officer's intervention, at least 34 types of situations occurred. Some examples of those situations include impounding an animal, investigating a prowler, responding to complaints about loud music, and responding to an armed robbery—the single most common category.

As expected, researchers found a slight trend for suicidal incidents to involve the cluster of a general disturbance, domestic disturbance, and person with a weapon calls. A high number of suicidal incidents, however, also stemmed from armed robberies, and



many of the nonsuicidal shootings began with traffic stops. Speculation holds that armed robbery often signifies a desperate crime in which offenders, while much preferring to get away, would rather be killed than captured.

Precipitating Event

Researchers identified numerous different reasons why police officers fired their weapons. Pointing or firing a gun at an officer represented the most common precipitating event by far. A cluster of events that can be construed as challenging the officer (e.g., pointing a gun at the officer, firing at the officer, reaching for a weapon, etc.) accounted for 89 percent of the suicide by cop incidents, compared to only 49 percent of the nonsuicidal incidents. The nonsuicidal incidents were more likely to involve accidental or vague circumstances.

Cross-Validation Study

The authors conducted a follow-up study because of the vague initial finding that suicidal motivation could be implicated in

anywhere from 16 to 46 percent of the incidents. The new sample of incidents, taken from the *Detroit Free Press* files from 1992 to 1993, produced 33 usable incidents. Once again, the authors classified many of the incidents (42 percent) as indeterminate; of the 19 incidents with sufficient detail, the authors classified 9 (47 percent) as having possible suicidal motivation. Although this still leaves the range of possible suicidal incidents vague, it does support the conclusion that suicide by cop is not a rare occurrence.

Discussion

Perhaps the difficulty of identifying and dealing with suicide by cop is best illustrated by two incidents found in the cross-validation study, neither of which qualified as police shootings. In one incident, a man fired a shotgun inside a home, wounding three people and killing a 2-year-old girl. When confronted behind the home by officers, the man shouted, "I'm sorry! I'm sorry! Don't shoot me! I'm gonna shoot myself..." after which the man fired into his chest.²⁰

The second case involved a 17-year-old youth with no criminal record who was chased by police one night when he failed to pay for gas. He managed to elude police but later killed himself with one of many handguns found in his possession.²¹

One of these cases stemmed from a very serious incident; the other, from a comparatively trivial one. Both resulted in actual suicides but could have easily resulted in suicides by cop or in the killing of police officers. In both cases the suicide made the subjects' intentions obvious. Had the incidents resulted in shootings by the police, the evidence of the subjects' suicidal intent may or may not have been detectable.

Although other methodological issues could be taken into consideration, the study establishes suicidal motivation as a significant factor in many police shootings. The percentage of nationally reported police shootings involving probable or possible suicidal motivation ranges between 16 and 46 percent, and the cross-validation study found a similar range of 27 to 47 percent. These results indicate that this phenomenon warrants more careful study. At least four repercussions may develop as policy makers and citizens realize that the cause for many shooting deaths may arise more from a death wish on the part of the subject than from the officer's discretion in a shoot/don't shoot situation.

First, obvious implications exist for police-community relations. Citizens remain concerned about police use of deadly force, and

citizens' attitudes play a key role in determining police effectiveness. The extent to which police shootings may be victim precipitated constitutes a variable that merits inclusion in the shaping of those attitudes.

A second important issue concerns dealing with police stress. While the concept of critical incidents for police now covers a broad

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...officers still must make reasonable attempts to avoid having to use deadly force.

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spectrum, postshooting stress remains a major problem for many officers. The fatal shooting of a suicidal person, who perhaps has a mental illness, may be more or less stressful than the shooting of a dangerous felon. An awareness of this type of shooting situation remains critical for officers and police psychologists to understand more about the frequency and circumstances of suicide by cop.

A third implication involves civil litigation instigated against police officers for use of force in wrongful death actions. Admittedly, for police to say that a civilian engaged in suicide by cop may sound like a self-serving attempt to excuse the shooting, or at least to

divert any negative community backlash. Yet, even an unambiguous case of suicide by cop does not necessarily exonerate the officer involved; officers still must make reasonable attempts to avoid having to use deadly force. An understanding of the dynamics of suicide by cop may help juries determine the practicality of alternative actions officers may be expected to take.

Finally, an appreciation of the extent of suicide by cop may have widespread training implications. Officers who recognize the suicidal intentions often motivating the actions of disturbed persons may use a different approach in those calls involving domestic violence offenders and barricaded subjects, as well as a variety of other calls that involve police-citizen encounters. At the academy level, instructors devote only about 9 percent of basic training time to interpersonal skills.²² The percentage of time allotted to such training may need increasing or readjusting to deal appropriately with the suicide-by-cop phenomenon.

CONCLUSION

Police officers often have suspected that many police shootings are the ultimate result of suicidal intentions on the part of the subjects themselves. Whether explained as a form of victim-precipitated homicide, a consequence of impulsivity, or a result of various personality disorders, more must be learned about the phenomenon of suicide by cop. The results reported here suggest that the phenomenon plays a significant factor in police shootings.

Further research into this topic could have a significant impact on police-community relations by illustrating the role of many shooting suspects in causing their own deaths. Police officers themselves could better adjust to the trauma of shootings by gaining an appreciation of the suicidal nature of many subjects. The ability to curb litigation also would occur as juries more appropriately assess the culpability of all parties to a shooting. Finally, management could adjust police training and tactical operations to more appropriately respond to the phenomenon of suicide by cop.

In an ideal world, no police officer would ever have to shoot a suspect; peaceful resolution would occur. Yet, every day, officers become involved in dangerous situations where this does not hold true. Properly trained officers who understand the motivations of subjects with suicidal impulses and know how to deal with them will be better prepared to avert these tragedies. ♦

Endnotes

¹ W. Geller and M. Scott, *Deadly Force: What We Know* (Washington DC: Police Executive Research Forum, 1992).

² Richard N. Jenet and Robert J. Segal, "Provoked Shooting by Police as a Mechanism for Suicide," *The American Journal of Forensic Medicine and Pathology* 6 (March 1985): 274-75.

³ Although the hotel parking lot incident involved an armed uniformed security officer rather than a sworn police officer, the authors believe that the expressive career felon would have exhibited the same behavior. Ironically, the subject was eventually sentenced to death for the murder of the woman's husband, which had occurred only minutes before the security officer arrived on the scene.

⁴ See, for example, M. Seltzer and C. Payne, "Automobile Accidents, Suicide and Unconscious Motivation," *American Journal of Psychiatry* 119 (1962): 237-40.

⁵ D. Phillips, "Airplane Accident Fatalities Increase Just After Newspaper Stories about Murder and Suicide," *Science*, 201 1978, 748-750.

⁶ D. Lester, *Questions and Answers About Suicide* (Philadelphia: Charles Press, 1989).

⁷ J. Kinny, *Preventing Violence at Work* (Englewood Cliffs, NJ: Prentice Hall, 1995).

⁸ K. Wormer, "Execution-Inspired Murder: A Form of Suicide?" *Journal of Offender Rehabilitation* 22 (1995): 1-10.

⁹ D. Lester, *The Death Penalty* (Springfield, IL: Walter C. Thomas, 1987).

¹⁰ For autoerotic asphyxiation, see R. Hazelwood, P. Dietz, and A. Burgess, "Sexual Fatalities: Behavioral Reconstruction in Equivocal Cases," *Journal of Forensic Sciences* 27 (1982): 763-773. For a discussion of equivocal death analysis in general and the problems of psychological autopsies see N. Poythress et al., "APA's Expert Panel in the Congressional Review of the USS Iowa Incident," *American Psychologist* 48 (1993): 8-15.

¹¹ G. Gabbard, *Treatment of Psychiatric Disorders*, vols. 1-2, 2d ed. (Washington DC, American Psychiatric Press, 1995). W. Wilbanks, "Fatal Accidents, Suicide and Homicide: Are They Related?" *Victimology* 7 (1982): 213-217; and C. Williams, J. Davidson, and I. Montgomery, "Impulsive Suicidal Behavior," *Journal of Clinical Psychology* 36 (1980): 90-94.

¹² A. Karmen, *Crime Victims*, 3d ed. (Belmont, CA: Wadsworth, 1996), 12-17.

¹³ "Lee Brown's Sermon: Cops, Citizens Unite," *Philadelphia Inquirer*, March 9, 1994, sec. B 20.

¹⁴ Lauren Ritchie and Karen Samscock, "Ocoee Police Kill Driver Who Chased Them with Car" *Orlando Sentinel*, November 15, 1989, sec. D 1.

¹⁵ Mitch Gelman, Untitled, *New York Newsday*, February 5, 1990, sec. News, p. 7.

¹⁶ "Killed in Gun Battle," *Philadelphia Daily News*, December 17, 1993, sec. Local, p. 12.

¹⁷ The concept of a "reasonable hope of success" is problematic. With adrenalin flowing, a shootout with police at long odds may seem reasonable, especially to avoid life imprisonment or a possible death sentence. Nevertheless, the fact that raters can agree indicates, at least, that these categories can be applied consistently.

¹⁸ The *Miami Herald* staff, "Miami Robber Picks Undercover Cop, Police Say," *Miami Herald*, July 24, 1991, sec. 2B.

¹⁹ The "unclear" category was often the result of the actual outcome being indeterminate at the time the story was written.

²⁰ Jim Schaefer, "Gunman Kills Todler, Hurts Four, Then Shoots Self," *Detroit Free Press*, March 24, 1992, sec. 3A.

²¹ "Youth Stuck Up For His Friends," *Detroit Free Press*, May 4, 1992, sec. 2B.

²² R. Langworthy, et al., *Law Enforcement Recruitment, Selection, and Training: A Survey of Major Police Departments in the U.S.* (Highland Heights, KY: ACJS, 1995: 15).

Suicidal Motivation in 240 Police Shooting Incidents

Category	Frequency	Percent*
Probable Suicide	9	4
Possible Suicide	28	12
Indeterminate	160	67
Suicidal Motive Unlikely	22	9
No Suicidal Motive	21	9

*The total percent does not equal 100 due to rounding.

Ensuring Officer Integrity and Accountability

Recent Court Decisions

By DANIEL L. SCHOFIELD, S.J.D.



Law enforcement organizations must be vigilant about the conduct of officers in order to merit public trust and confidence. Public trust is undermined whenever officers lie or remain silent when questioned about law enforcement matters. In his exceptional book “Character and Cops,” Professor Edwin Delattre observes that:

Those who serve the public must hold to a higher standard of honesty and care for the public good than the general

citizenry does....A higher standard is not a double standard. Persons accepting positions of public trust take on new obligations and are free not to accept them if they do not want to live up to the higher standard. A higher standard as such is not unfair; granting authority to an official without it would be unfair to the public.¹

In ethical terms, a “...duty of veracity is concerned with straightforwardness in communication”

and officers who lie or remain silent when questioned are not being straightforward.² “Accountability—like authority and power—depends on information.”³

This article discusses recent court decisions involving officers who failed to meet this higher standard and then unsuccessfully challenged on federal constitutional grounds the resulting personnel action taken against them by their departments. Specifically, the article answers four questions relevant to a law enforcement

agency's efforts aimed at ensuring officer integrity and accountability. First, does the Constitution's Due Process Clause shield officers from departmental discipline for falsely denying allegations of misconduct? Second, after being afforded *Garrity* immunity, may officers be compelled to answer work-related questions and terminated if they remain silent or respond in less than a fully candid and honest manner? Third, may an adverse inference for purposes of imposing discipline be drawn from an officer's decision to lawfully exercise his Fifth Amendment right to remain silent? Fourth, may officers who exercise their Fifth Amendment right to remain silent be transferred or reassigned when that silence raises legitimate security or fitness for duty concerns?

Due Process Right to Falsely Deny Charge Rejected

The essence of procedural due process protection is a meaningful opportunity for employees to respond to evidence of alleged misconduct before disciplinary action is imposed. One question of particular importance to the issue of officer integrity is whether this "meaningful opportunity to respond" includes a right to falsely deny the alleged misconduct and a concomitant right not to be subject to discipline for making that false statement.

In 1998, the Supreme Court answered that question in *LaChance v. Erickson*⁴ by ruling that the Due Process Clause does not preclude a law enforcement agency from sanctioning employees for falsely denying alleged

employment-related misconduct. In that case, a Department of the Treasury Supervisory Police Officer, Lester Erickson, was charged with misconduct and for making false statements during an agency investigation. The misconduct charge was based on evidence Erickson encouraged a third party to make a "mad laughter" telephone call to another police officer during duty hours. The "mad laughter" calls were made to employees at their duty stations during which the caller would laugh continuously and then hang up. The falsification charge was based on Erickson's denials to an agency investigator that he had knowledge of or participated in the "mad laughter" calls. The falsification charge resulted in Erickson's removal whereas the misconduct charge alone would have only resulted in a suspension.

An appeal to the U. S. Court of Appeals for the Federal Circuit resulted in a ruling that Due Process protections prevented the agency from charging Erickson with falsification based on his denial of the

misconduct allegations or from enhancing his penalty on the misconduct charge based on his false denial.⁵ In essence, the court concluded that allowing an agency to charge an employee with falsely denying facts underlying a misconduct charge would deprive the employee of a *meaningful* opportunity to respond to the charges.⁶ The court distinguished this so-called right to deny from a right to lie or affirmatively mislead an agency engaged in an investigation:

Beyond a denial of a charge or of the factual accusations supporting a charge, an employee may not make up a false story, or tell tall tales in order to defend against a charge. Such falsehoods which go beyond denial and defense are actionable by an agency as falsification.⁷

The Supreme Court unanimously rejected the lower court's holding that the due process clause included the right to falsely deny misconduct allegations. The Court

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Public trust is undermined whenever officers lie or remain silent when questioned about law enforcement matters.

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began its analysis by stating the following general proposition:

Our legal system provides methods for challenging the government's right to ask questions—lying is not one of them. A citizen may decline to answer the question, or answer it honestly, but he cannot with impunity knowingly and willfully answer with a falsehood.⁸

The Court explained that the core of due process protection is the right to notice and a meaningful opportunity to be heard and does not include a right to make false statements.⁹ The Court rejected as “entirely frivolous” the concern expressed by the lower court that “...if employees were not allowed to make false statements, they might be coerced into admitting the misconduct, whether they believe that they are guilty or not, in order to avoid the more severe penalty of removal possibly resulting from a falsification charge.”¹⁰

Constitutionally Permissible Responses to Officer Silence

The Fifth Amendment right against self-incrimination provides that “...no person shall be compelled in any criminal case to be a witness against himself.”¹¹ The scope of this constitutional protection has been described by the Supreme Court as follows:

The Amendment not only protects the individual against being involuntarily called as a witness against himself in a criminal prosecution but also privileges him not to answer

official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings.¹²

Accordingly, in *Garrity v. New Jersey*,¹³ the Court held that, when law enforcement officers were given the choice of either forfeiting their jobs or incriminating

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...a law enforcement agency [is not precluded] from sanctioning employees for falsely denying alleged employment-related misconduct.”

themselves, the Fifth Amendment was violated “...because a forced decision of that kind is likely to exert such pressure upon an individual as to disable him from making a free and rational choice.”¹⁴

Whenever law enforcement officers elect to remain silent rather than respond to work-related questions, legitimate public and departmental concerns regarding officer integrity and accountability are implicated. Clearly, the constitution prohibits the termination of officers solely for exercising their Fifth Amendment right to remain silent. However, recent court decisions have upheld the constitutional

authority of departments to take the following actions to ensure officer integrity and accountability. First, the Fifth Amendment right against self-incrimination is not violated when officers afforded *Garrity* immunity are ordered to undergo a polygraph examination as a condition of their continued employment. Second, officers who exercise their Fifth Amendment right to remain silent are subject to discipline or termination based in part on an adverse inference drawn from that silence. Third, officers may be transferred to an arguably less prestigious assignment based on legitimate departmental security concerns arising from their decision to remain silent.

Compelling Accountability After Garrity Immunity

In her article “Compelled Interviews of Public Employees,” which appeared in the May 1993 issue of the *FBI Law Enforcement Bulletin*, Kimberly Crawford comprehensively explains *Garrity* immunity and the circumstances when public employees can be compelled to answer work-related questions. The article clearly shows that officers properly compelled to answer under *Garrity* immunity can be disciplined or terminated for remaining silent or for their “lack of candor” if they lie or give evasive answers.

In 1995, the authority to compel officer accountability under *Garrity* immunity was illustrated in *Wiley v. Mayor and City Council of Baltimore*,¹⁵ where the U. S. Court of Appeals for the Fourth Circuit ruled that officers did not have

their Fifth Amendment rights against self-incrimination violated when they were ordered to undergo polygraph examination as a condition of their continued employment. The court concluded that "...forcing a public employee to answer potentially incriminating job-related questions does not implicate the Fifth Amendment unless the employee is also compelled to waive his privilege."¹⁶ The court rejected the officers' argument that the presence of a criminal investigation was constitutionally significant by noting that a department "...may compel job-related testimony from an employee in the course of a criminal investigation, provided, of course, that the state does not make direct or derivative use of the statement against the employee in any criminal proceeding."¹⁷

Drawing Adverse Inferences for Disciplinary Purposes

In 1998, the U. S. Court of Appeals for the Eleventh Circuit ruled in *Harrison v. Wille*¹⁸ that *Garrity* immunity does not prohibit a department from drawing an adverse inference from an employee's silence that is considered along with other evidence for purposes of imposing discipline or termination.¹⁹ In that case, a deputy sheriff was suspected of stealing items from the department's evidence room and both internal and concurrent criminal investigations were conducted. At a predisciplinary conference, the deputy was given a form explaining his *Garrity* rights but was informed

by his lawyer that because statements were not being compelled by the department, *Garrity* immunity did not exist. The lawyer, therefore, advised the deputy to exercise his Fifth Amendment right against self-incrimination and remain silent, which he did.



The deputy was terminated after a lengthy investigation. The department based the termination on incriminating evidence developed during the investigation along with an adverse inference drawn from his silence. The deputy then brought a civil rights action claiming his Fifth Amendment right to remain silent was violated by the department's consideration of his silence.

The court rejected the deputy's claim on the grounds that "...*Garrity* only prohibits the *compulsion* of testimony that has not been immunized. In other words, the employee may not be both compelled to testify (or make a statement) *and* be required to waive his Fifth Amendment rights."²⁰ Therefore, since the deputy was not

compelled to make a statement, the court concluded the department did not violate the Constitution when, along with the other evidence, it drew an adverse inference from the deputy's silence as a factor supporting the termination. The court suggested that a Fifth Amendment violation would only be proved if the deputy's "...invocation of the Fifth Amendment was the *sole* reason for his termination" rather than merely a substantial or motivating factor.²¹

Transfers and Reassignments

In 1997, the U. S. Court of Appeals for the Seventh Circuit held in *Chan v. Wodnicki*²² that the transfer of an officer for invoking his Fifth Amendment privilege before a grand jury did not violate clearly established constitutional law. Chan was a Chicago police officer assigned to a multijurisdictional terrorist task force that required all officers on the task force to have a "top secret" security clearance from the federal government. While a member of the task force, Chan was subpoenaed before a grand jury investigating illegal activity in the Chinatown section of the city where Chan had been previously assigned. After Chan invoked his Fifth Amendment privilege before the grand jury, his security clearance was revoked, ostensibly, for failing to answer the grand jury's questions. Chan was then transferred at the same rank and salary from the task force to another assignment in the department.

Chan claimed the transfer was in retaliation for having asserted his constitutional right against self-incrimination and that it caused economic and reputational harm because 1) he had fewer opportunities for overtime in his new assignment; 2) his government car was taken away; and 3) he had to wear a uniform in his new assignment which was less prestigious.

The Supreme Court has clearly held "...that not every consequence of invoking the Fifth Amendment is considered sufficiently severe to amount to coercion to waive the right. Rather, the effect must be sufficiently severe to be capable of forcing the self-incrimination which the Amendment forbids."²³

In this case, Chan's transfer resulted in no loss of rank or salary, but did result in the loss of incidental benefits such as the opportunity to earn additional compensation through overtime assignments and the use of a government car. Even factoring into the balance the loss of prestige that goes with such a special assignment, the court concluded that the lateral transfer of Officer Chan did not amount to the sort of penalty that could be considered coercive with respect to Fifth Amendment rights.²⁴

Conclusion

The importance of officer integrity and accountability for law enforcement effectiveness cannot be overstated. Safeguarding an officer's constitutional right to due process and Fifth Amendment privilege against self-incrimination

may impede a department's efforts to acquire information relevant to officer integrity and accountability.

However, recent court decisions have upheld the constitutionality of various departmental actions taken in response to an officer's false statements or refusal to answer work-related questions. First, due process does not shield officers from discipline for falsely denying misconduct allegations. Second, officers afforded *Garrity*

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...the constitution prohibits the termination of officers solely for exercising their Fifth Amendment right to remain silent.

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immunity can be compelled to cooperate and disciplined for refusing to answer or for responding in less than a fully candid manner.²⁵ Third, exercising the Fifth Amendment right to remain silent is not always a cost-free exercise since departments may draw an adverse inference from an officer's silence as a factor in subsequent discipline and transfer officers when their silence creates legitimate security or fitness for duty concerns. Before taking any of these administrative actions, law enforcement managers should consult with their department legal

advisor to ensure the contemplated action is legally defensible under both state and federal law. ♦

Endnotes

- ¹ Edwin J. Delattre, "Character and Cops," p. 68 (3d ed. 1996).
- ² *Id.* at 129.
- ³ *Id.* at 90.
- ⁴ 118 S. Ct. 753 (1998).
- ⁵ *King v. Erickson*, 89 F.3d 1575 (Fed. Cir. 1996).
- ⁶ *Id.* at 1583.
- ⁷ *Id.*
- ⁸ 118 S.Ct. at 755, quoting *Bryson v. United States*, 396 U.S. 64, 72 (1969).
- ⁹ *Id.* at 756.
- ¹⁰ *Id.*
- ¹¹ U.S. Const. Amend V.
- ¹² *Lefkowitz v. Turley*, 414 U.S. 70, 77 (1973).
- ¹³ 385 U.S. 493 (1967).
- ¹⁴ *Id.*
- ¹⁵ 48 F.3d 773 (4th Cir.); *cert. denied* 116 S. Ct. 89 (1995).
- ¹⁶ *Id.* at 777. *See also, Debnam v. N.C. Dept of Corrections*, 432 S.E.2d 324 (Sup. Ct. N.C. 1993).
- ¹⁷ *Id.*
- ¹⁸ 132 F.3d 679 (11th Cir. 1998).
- ¹⁹ *Id.* at 682-83.
- ²⁰ *Id.* at 682 (citation omitted).
- ²¹ *Id.* at 683, n. 6.
- ²² 123 F.3d 1005 (7th Cir.), *cert denied*, 118 S. Ct. 1054 (1998).
- ²³ *Id.* at 1009 (citations omitted).
- ²⁴ *Id.* at 1010.
- ²⁵ Even though *Garrity* immunity is self-executing when statements are in fact compelled, it may be necessary to explain the nature and scope of *Garrity* protection to employees before disciplining them for lack of candor.

Law enforcement officers of other than federal jurisdiction who are interested in this article should consult their legal advisors. Some police procedures ruled permissible under federal constitutional law are of questionable legality under state law or are not permitted at all.

The Bulletin Notes

Law enforcement officers are challenged daily in the performance of their duties; they face each challenge freely and unselfishly while answering the call to duty. In certain instances, their actions warrant special attention from their respective departments. The *Bulletin* also wants to recognize their exemplary service to the law enforcement profession.



Sergeant Pinkney

On a hot summer evening, Detective Sergeant Cleveland Pinkney of the Sumter, South Carolina, Police Department was off duty in Columbia, South Carolina, with his family. After attending his son's award ceremony, Sergeant Pinkney and his family stopped at a local shopping mall. While in the mall's parking lot, Sergeant Pinkney noticed a man and woman having a heated argument. Suddenly, the man produced a handgun and fired at the woman. Sergeant Pinkney immediately intervened, identified himself, drew his service weapon, and told the man to drop his gun. The man ignored Sergeant's Pinkney's request and stood over the woman ready to fire again. Sergeant Pinkney immediately fired at the man, wounding him. Both the man and woman were transported to a local hospital and treated for their injuries. Sergeant Pinkney's rapid response and dedication to his professional duty saved the woman's life and led to the arrest of her assailant.



Officer Butterfield

Officer Mark Butterfield of the Elko, Nevada, Police Department and two fellow officers were dispatched to a residential fire. Arriving at the scene, a neighbor advised the officers that three children were trapped in the burning house. A neighbor and Officer Butterfield rescued one child. Then Officer Butterfield kicked down an exterior door and crawled down a hallway until he located an unconscious child. He carried this second child to safety while firefighters and the other officers rescued the third child. Officer Butterfield was treated for smoke inhalation at a local hospital. The unselfish actions of Officer Butterfield contributed greatly to the survival of all the children.



Officer Muller

Officer Jeffrey D. Muller of the United States Park Police in Washington, DC, stopped to assist a motorist at a local marina. After the driver exited the vehicle to talk to Officer Muller, the car began moving toward the river with an elderly female passenger still inside. Officer Muller unsuccessfully attempted to stop the vehicle before it plunged into the icy water. After calling for assistance, Officer Muller obtained a life ring from his patrol vehicle and entered the river to rescue the woman. After several attempts, he managed to open the vehicle's door and pull the woman from the submerged vehicle. Even with the onset of hypothermia, Officer Muller swam to a nearby stone wall and lifted the woman up to responding officers. The quick, decisive actions of Officer Muller saved the woman's life.

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Patch Call



The patch of the Little Rock, Arkansas, Police Department features oak leaves, representing the lumber industry and vast forests in the area. The white star symbolizes the capital rising above "The Little Rock," a protruding cliff discovered in 1722 by French Explorer Bernard de LaHarpe.



The City of Beatrice, Nebraska, Police Department patch was designed in honor of Daniel Freeman, who filed the first homestead in the United States. In 1862, he built his first log cabin. A plow and windmill were used to cultivate the land and pump water into his homestead in Beatrice.